



from custody on the same conditions of supervised release.

In light of United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc), petitioner does not have a prior conviction of a crime punishable by imprisonment for a term exceeding one year. A necessary element of the crime of conviction is therefore lacking. See 18 U.S.C. § 922(g)(1). Where the government waives defenses and concedes that petitioner's motion to vacate sentence should be granted, and where the court, having reviewed the record, finds petitioner's motion meritorious, said motion is GRANTED, and the judgment of conviction and sentence dated July 20, 2007, is VACATED, and the government's motion for revocation of supervised release is DISMISSED. Petitioner is ORDERED to be released from his term of supervised release, unless some cause be shown by the government on or before noon on October 12, 2012, why petitioner is not now entitled to this relief.

SO ORDERED, this the 10th day of October, 2012.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

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LOUISE W. FLANAGAN  
United States District Judge